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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)

Advanced Television Systems)

and Their Impact Upon the)

Existing Television Broadcast)

Service)

MM Docket No. 87-268

TO: The Commission

COMMENT ON FOURTH FURTHER NOTICE
OF PROPOSED RULE MAKING
AND THIRD NOTICE OF INQUIRY
ON ADVANCED TELEVISION

I. INTRODUCTION

These comments address the Commission's latest proposal for Advanced Television (ATV). They look why the need for a new television service should be addressed before action is taken, and how it can be determined. They observe that Low Power television (LPTV) was ignored in the current proposal and the unprecedented damage that could do. The success and importance of LPTV are outlined, and eight recommendations are made to assure its survival in the proposed rule making.

II. THE NEED FOR ATV UNPROVED

1. The Communications Act of 1934 requires broadcasters to serve "the public interest, convenience and necessity." However, the Commission is rushing ahead with its Advanced Television Proposal without first determining if the American public is interested in or needs improved video or audio--or additional digitally-compressed channels. Should every television set, videocassette recorder, satellite receiver, cable box and videotape in the country be rendered obsolete? When the Commission authorized color television and multi-channel television sound, it made sure the new enhancements would be compatible with existing home equipment. Have consumers been surveyed to determine if

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they are willing to spend thousands of dollars to replace every piece of video equipment they own? Can anyone assure them that the programming they receive on ATV would be better than, or even as good as, that they receive now? The Commission needs to objectively answer these fundamental questions before proceeding with this rule making.

2. The Commission is being advised by the Advisory Committee on Advanced Television Service. I understand the Committee is comprised of representatives from the electronics industry and large conglomerate broadcasters. Obviously, manufacturers--who failed to develop the consumer VCR that was invented in the U.S. and allowed all TV set making to go to foreign companies--hope obsoleting all American video equipment might open up lucrative new markets. Big telecasters have the millions of dollars to build new ATV plants...especially if the government will give them a "free" second channel to experiment with. Both have financial biases in recommending a new service. But who on the Committee represents the viewing public? Or small-market TV stations? Or budget-strapped public stations that can ill afford to build a duplicate plant? Or Low Power Television stations and Television Translators that would be put off-the-air by the new ATV channels?

3. The ATV proposal is inconsistent. It is binding on all Full Power television stations...but not on cable television, direct broadcast satellite, telephone company video dialtone services or consumer video tape distributors. If improved pictures and sound are important for broadcast--why not all television media?

4. Before the Commission moves forward with ATV, an independent survey of consumers should be conducted to see if viewers actually want advanced television, given its high cost and incompatibility with present video equipment. Further, the Advisory Committee should be expanded to include representatives of consumers and all television media...not just Full Power broadcasters.

III. LPTV IGNORED IN ATV PROPOSAL

1. In Paragraph 6 of Section II of its Fourth Further Notice, the Commission says "...we recognize our obligation to manage the spectrum efficiently and in the public interest and to take account of the legitimate interests of all those with a stake in that transition" (emphasis added). However, the Commission has apparently ignored the proposals' effect on 1,648 Low Power Television stations and 4,770 Television Translators (Fourth Further Notice...page 35) and their viewers. None of the Commission's ATV rule making proposals or its proposed assignments of second, ATV channels has addressed their disastrous impact on these television broadcasters and their audiences.

2. To increase spectrum efficiency, the Commission created Low Power Television (LPTV) in 1982. LPTV stations were designated a "secondary" service which had to avoid interference to Full Power television stations. Therefore, LPTV applicants carefully engineered their applications to avoid interference and the Commission's LP-One computer program was designed to confirm that none would occur. However, LPTV applicants and licensees were never told that their channels could be taken away when the FCC thought up a new television service. That is exactly what is happening to me.

3. After a fifteen-year legal battle, I finally obtained a construction permit to serve more than one-million people in the Sacramento, California area. I invested my life savings and K25EL formally signed on-the-air in December of 1994. However, the Commission's proposed list of ATV channels now proposes to give away my channel without compensation to a multi-million dollar group--telecaster that already owns stations in the Fresno, San Francisco, Sacramento and Reno markets. Even though Part 74 Rules theoretically would allow me to move to another channel where I wouldn't cause interference...it will be virtually impossible to find one. I am in the overlap of three markets and can receive 38 television stations on a good day. When each of those is given a second channel, that is 76 stations in the region...and there are only a total of 67 VHF and UHF channels available.

4. Never in history has the Commission put a whole class of broadcast stations out of business. However--except for the most rural areas--that would be the practical effect of this ATV rule making. When the FCC moved FM from the 40 MHz band to 88-108 MHz, existing stations were allowed to move. When the Commission created UHF, VHF television stations were not eliminated. Even the few that were "de-intermixed" from VHF were given a new UHF channel.

5. Eliminating existing LPTV stations that are serving the public interest, would set a dangerous precedent in communications policy. It is also likely to result in an angry outcry from viewers deprived of their favorite local channels that the Commission may not have anticipated.

IV. The LPTV Success Story

1. Low Power television has been an unqualified success story for the Commission. In just a dozen years, there are now more LPTV stations in America than Full Power stations. Full Power television has had half a century to grow. The Commission created LPTV to provide new local service to rural communities, serve special interests within

urban areas and provide more ownership opportunities for ethnic minorities. All of these goals are being served by this new service.

2. In Alaska, the state's Low Power network provides the only television service to hundreds of small, isolated communities. In New York City, an LPTV station programs in a dozen different languages to serve the city's multi-ethnic population. In southern Florida, a chain of Low Power stations serves both visitors and local businesses by providing programming promoting tourism. Many LPTVs provide the only local news in their communities.

3. Minorities own 10-15% of Low Power television stations versus only 1% of Full Power stations. In fact, 87% of the television stations owned by ethnic minorities are LPTVs.

4. This summer, the federal government decided to close McClellan Air Force Base--Northern California's largest industrial employer. When a forum was held to discuss the future of the base's 13,000 employees, my LPTV K25EL was the only television station to broadcast them entire meeting...and in prime time. This is but one example of the unique, community programming offered by Low Power stations.

5. By definition, Low Power television stations are small businesses. At a time when large corporations are laying-off hundreds of thousands of employees--small businesses are creating nearly two-thirds of new jobs. While conglomerates are consolidating the major media into an increasingly small number of hands, LPTV provides diversity of ownership and viewpoints. An ATV proposal that threatens nearly half of the nation's television stations, and a growing industry of small businesses, would be clearly not in the public interest.

V. RECOMMENDATIONS

On page 5, paragraph 11, the Commission says, "Our free over-the-air television service is a critical national medium and resource, and the issues raised in this proceeding are central to the direction that medium will take in the twenty-first century." In their separate statements, Commissioners Quello and Chong both note that preservation of free, universal, over-the-air television is "critical" and "fundamental" to the health of our democratic society. Even more than regional stations, LPTVs are best-equipped to provide that kind of service on a local level. Any ATV proposal which ignores--and even worse threatens the continued existence of--the more than half of television stations that happen to be Low Power, would ill-

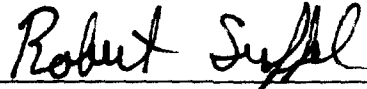
serve the American people. To that end, I make the following recommendations:

1. That before the Commission launches its ATV plan, a broad-based consumer survey be conducted to determine if the American people want Advanced Television. That the survey be conducted independently with respondents fully informed of the estimated consumer costs associated with conversion to ATV and of the fact that all consumer video equipment and tapes would be made obsolete by ATV.
2. That if the Commission goes forward with ATV, any table of assignments of ATV channels be designed to protect existing LPTV stations in the Commission's database whenever possible. That development of any technical standards, or computer program to arrive at such allocations, be arrived at with the cooperation of all television broadcast industry segments...including LPTV...and not just one industry segment.
3. That any interference standards for ATV recognize industry field tests that, under some circumstances, digital ATV and NTSC LPTV signals can coexist on the same television channel. That such standards recognize the lower power that LPTV stations actually use and not some arbitrary assumption. That interference standards for LPTV be revised to reflect the characteristics of modern television tuners, and not the antiquated 1950s, tube-set standards contained in Parts 74.703, 74.705, and 74.707 of the Commission's Rules (CFR 47). For a discussion, see "The Case Against The UHF Taboos" by Isaac S. Blonder, Chairman of Blonder-Tongue Laboratories dated 10/29/81, Updated 3/18/82.
4. That any LPTV displaced by such a table of ATV allotments, should have at least 90 days to propose for Commission consideration, technical changes which would allow continued operation.
5. That LPTV stations be given a priority over the public--or any other broadcast entity--in applying for any available ATV channels after allocations are made. That successful applicants for such ATV channels then be given primary ATV status and any "must carry" cable rights enjoyed by other ATV stations.
6. That any spectrum "repacking" or "recapture" plan leave room for existing Low Power television stations, and, perhaps, allow for a guard-band between them, and Full Power stations and non-broadcast services.
7. That any remaining spectrum used by existing LPTVs not be subject to auctioning-off, and that LPTVs displaced by ATV allocations be given priority over any other applicant for a new channel.

8. Finally, the Commission should re-visit Low Power television with an eye toward finding mechanisms to allow LPTV stations to gain protected status, increase power in a manner that would not cause interference, and grant them equal "must carry" cable status--so they can compete on a more level playing field.

Respectfully submitted,

APOGEE BROADCASTING CORPORATION

A handwritten signature in cursive script, reading "Robert Suffel", written over a horizontal line.

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